

FILED
SUPREME COURT
STATE OF WASHINGTON
8/24/2020 8:00 AM
BY SUSAN L. CARLSON
CLERK

No. 98755-6

SUPREME COURT OF THE STATE OF WASHINGTON

Edward M. Goodman and Bernice S. Goodman
Respondents,

v.

Michael Goodman, Petitioner

PETITIONER'S REPLY

Michael Goodman
13785 Goodman Lane
Anacortes, WA 98221

INTRODUCTION

The trial court lacks jurisdiction is the issue.

The Respondents have misrepresented the case record to procure jurisdiction raising two new issues 1. Fraud upon the court re: Michael's timely affidavit of prejudice 2. Failing to disclose 8 new findings of fact in Successor Judge Stiles Judgment.

1. Michael's affidavit of prejudice against Judge Susan Cook is timely, "agreed orders" are not discretionary rulings.

Respondents (herein Edward) entire answer fails to provide any discretionary ruling prior to Michael's timely affidavit of prejudice. Edward Judge shopped for Judge Susan Cook and the day they filed their lawsuit it was expressly requested to have their case

"before Judge Cook".

Michael filed a timely affidavit of prejudice against Judge Cook and called attention of the affidavit to Judge Cook.

Edward misrepresented an "agreed order" as a discretionary ruling to substituted counsel.

Agreed orders (*see appendix*) are not discretionary.

The June 3, 2010 order denying Michael's affidavit cites the 4/23/2010 date, but fails to disclose it was only an "agreed order".

Substituted counsel objected "We will note our objection for the record" and expressly wrote "Tyson Goodman objects to this

case being heard by Judge Cook, his affidavit of prejudice was filed in a timely fashion.”

4/23/2010 agreed order, see appendix.

The “agreed order” has been used again and again and again, hoping the courts will not connect the dots.

“Fraud upon the court” makes void the orders and judgments of that court. The U.S. Supreme Court has consistently held that a void order is void at all times, does not have to be reversed by the passage of time. The order is void ab initio. *Valley v Northern Fire & Marine Ins. Co.*, 254 U.S. 348, 41 S.Ct. 116 (1920).

“Fraud destroys the validity of everything into which it enters,” *Nudd v Burrow* (1875), 91 US 426, 23 Led 286, 290; particularly when “ a judge himself is a party to the fraud,” *Cone v Harris*.

MICHAEL'S RIGHT TO FAIR TRIAL

The right to a fair trial conducted by an impartial judge is a fundamental component of the American system of justice. To ensure achievement of this fundamental goal, most states, developed a mechanism by which judges who exhibited bias or prejudice were disqualified from sitting on a particular case.

Under the RCW 4.12.040 this case must be transferred to another Judge/department of the same court, or call in a judge from some other court.

This Supreme Court has the power *Sua Sponte* to transfer this case to a different Judge.

The United States Supreme Court has recognized that the lack of an impartial judge is violative of the due process clause of the fourteenth amendment. *Ward v Village of Monroeville*, 409 U.S. 57 (1972); *Tumey v Ohio*, 273 U.S. 510 (1927).

Michael did not have a fair trial with an impartial Judge. The trial court lacks jurisdiction. Misrepresenting an agreed order as a discretionary ruling does not procure jurisdiction, it only demonstrates the prejudice Michael was subjected to. Michael's constitutional right to a fair trial has been violated by Edward's misrepresenting the case record.

2. Successor Judge Stiles was disqualified from entering 8 new findings of fact under RCW 2.28.030.

Judge Stiles who did not hear the evidence; entered 8 new findings of fact, doubling the relief to Edward, from 1 to 2 easements.

Edward's answer fails to disclose this new findings of fact entered nearly a decade after trial in 2018: CP 286 – 288. See appendix.

- 1) Plaintiffs have an easement over lot 4 created by short plat 55-80, shown on the face of the plat map as "20' NON-EXCLUSIVE EASEMENT FOR ROAD AND UTILITES PURPOSES. And
- 2) The easement provides owners of lot 3 access to the north portion of the lot; and
- 3) Plaintiff's are the owners of lot 3 and Defendant is the owner of lot 4 and 2 of the short plat, and

- 4) This litigation was commenced in 2010 between the parties and completed by trial in March 2011 before Judge Susan Cook and final orders were entered in January 2012; and
- 5) In the final order Judge Cook made specific findings concerning the easement over lot 4 in findings of fact 46 through 53, recognizing Plaintiffs right to the easement across lot 4 to access lot 3; and
- 6) Judge Cook found that the parties original intent was to have two easements to lot 3 because of land topography; and
- 7) Defendant argues that decisions of the Court of Appeals and Supreme Court in this matter extinguished the easement across lot 4, but the court can find nothing to support that argument, and
- 8) The Court finds no prior orders requiring the defendant not interfering with Plaintiffs' right to use the easement on lot 4.

Finding of fact number #6 doubled the relief to Plaintiffs. It now gave Edward two (2) easements.

Edward's answer gives an incomplete record.

Nearly a decade after trial Edward ran back to the trial court on a motion for contempt on 2012 order.

Michael was found not in contempt.

Successor Judge Stiles ruling; Record of Proceeding at page 51.

THE COURT: Okay. Well, here's what I'm going to do. I've read the whole file. And, Mr. Moser, I'm having trouble, frankly, of finding Michael in contempt for an order that only references the shared driveway. I don't know how I can do that.

Edward then flipped flopped and argued his case the other

way with a successor Judge.

Edward has gone from one (1) access a decade ago, now he wants two (2) with a successor Judge.

The second Judgment entered by a successor Judge was a “backroom” deal where Michael was not even heard.

Michael filed the affidavit to disqualify Judge Stiles under RCW 2.23.080 as successor Judge Stiles heard none of the evidence and has no jurisdiction to enter 8 findings of fact.

One obvious purpose of RCW 2.28.030 is to preclude a party from arguing the case the other way with a successor Judge, such as Edward has done.

Successor Judge Stiles is unaware of the prior arguments Edward made at trial, which made is easy for Edward to flip.

Successor Judge Stiles was not aware the Court of Appeals 2014 opinion affirmed only one easement.

(1) one to (2) easements a decade later is not clearing an easement, it's doubling the relief.

Edward is not enforcing the 2012 order, (Michael was not in contempt as ruled above), he knows the system is “broken” and can take advantage of a successor Judge, and argue the case both ways.

Edward's answer cited *State v. Lindsey* and *In re Jaime v*

Rhay “as sentences were imposed by different Judges.” Both these prior cases did not hold a successor Judge can enter new findings of fact.

Successor Judge Stiles lacks jurisdiction as RCW 2.28.030 has held in: *Svarz v Dunlap*, *State v Sims*, and *State v Olson*, that a successor Judges cannot render a finding of fact based on evidence they didn't hear.

MANIFEST INJUSTICE

The Court of Appeals Division One January 13, 2014, unpublished opinion no. 68416-7-1 affirmed one (1) easement to Respondent's property at page 7

“There is no other practical or feasible access for vehicles or pedestrians to lot 3 from a public road other than the shared driveway.”

Michael paid 38k in attorney's fees and costs for the January 13, 2014 unpublished opinion, because Respondent's could not use their own express easement on lot 4.

However, the Court of Appeals Division One April 13, 2020 unpublished opinion no.79408-6-1 affirmed two (2) easements to Respondent's property, adding the express easement on lot 4 the January 13, 2014 opinion held couldn't be used.

The January 13, 2014 and April 13, 2020 opinions conflict.

This is a manifest injustice and this Supreme Court must throw the case out.

RESPONSE TO MOTION FOR ATTORNEY'S FEES.

The Respondents/(Edward and Bernice) denied Michael's constitutional right to a fair trial by misrepresenting an "agreed order" (see appendix). Michael should be given a refund for all the attorney's fees he had to pay to defend himself in a prejudiced trial court, which was Judge shopped.

Edward's answer failed to disclose a successor judge entered 8 new findings of fact (see appendix). Michael should be refunded \$38k already paid from this manifest injustice mentioned above.

Furthermore Respondents should be sanctioned for misrepresenting the case record to procure jurisdiction.

THE EFFECT OF LACK OF JURISDICTION

"If a court has no jurisdiction of the subject of an action, a judgment rendered therein does not adjudicate anything. It does not bind the parties, nor can it there-after be made the foundation of any right. It is mere nullity without life or vigor. The infirmity appearing upon its face, its validity can be assailed on appeal or by motion to set it aside in the court which rendered it, or by objection to it when an effort is made to use it as evidence in any other proceeding to establish a right."

CONCLUSION

The trial court lacks jurisdiction. This case must be transferred to a different Judge, as Michael's affidavit of prejudice is timely. Agreed orders are not discretionary rulings.

Under RCW 2.28.030 Judge Brian Stiles was disqualified from entering a second Judgment with eight new findings of fact with testimony, evidence, and argument that Judge Stiles did not see or hear, and lacks jurisdiction.

Michael respectfully request this Supreme Court throw this case out for the lack of trial court jurisdiction. This case must be transferred to an impartial judge.

Dated this August 22, 2020.


Michael Goodman

APPENDIX

Agreed Order

A - 4

Successor Judge Stiles 8 new findings of facts

A - 5

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

2010 APR 23 PM 1:09

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAGIT

EDWARD M. GOODMAN and BERNICE S.)
GOODMAN, husband and wife,)

Plaintiffs,

vs.

MICHAEL J. GOODMAN and MARY F.)
GOODMAN, husband and wife, and)
CHANCE GOODMAN, a single man, and)
TYSON GOODMAN, a single man,)

Defendants.

NO: 10-2-00587-3

AGREED TEMPORARY RESTRAINING
ORDERS AND ORDERS TO SHOW
CAUSE

[Clerk's Action Required]

Special Set
preapproved by
Court Admin. (WB)

THIS MATTER having come before the court upon Order to Show Cause why
defendants Michael J. Goodman, Chance Goodman and Tyson Goodman, or their agents, should
not be temporarily restrained during the pendency of this action, and the parties agreeing to
continue the hearing on order to show cause and the temporary restraining orders, the court
makes the following:

1. IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Defendant Michael J.
Goodman, Chance Goodman and Tyson Goodman, or their agents, are restrained and

AGREED TEMPORARY RESTRAINING
ORDERS AND ORDERS TO SHOW CAUSE



A-4

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

2018 DEC -4 AM 9:40

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7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAGIT

8 EDWARD M. GOODMAN and BERNICE S.)
9 GOODMAN, husband and wife,)

10 Plaintiffs,)

11 vs.)

12 MICHAEL J. GOODMAN,)

13 Defendant.)
14

No: 10-2-00587-3

**ORDER ON PLAINTIFFS' MOTION FOR
ORDER ON CLEARING EASEMENT,
CONTEMPT OF COURT, TERMS AND
ATTORNEY FEES**

15 **THIS MATTER** having come before the court upon Plaintiffs' Motion For Order On
16 Clearing Easement, Contempt of Court, Terms and Attorney Fees, the Plaintiffs being
17 represented by attorney C. Thomas Moser, Defendant Michael Goodman is Pro Se, the court
18 now makes the following:

19 **Findings of Fact:**

20 1) Plaintiffs have an easement over Lot 4 created by short plat number 55-80, shown on the face
21 of the plat map as "20' NON-EXCLUSIVE EASEMENT FOR ROAD AND UTILITES
22 PURPOSES"; and

23 2) The easement provides the owners of Lot 3 access to the north portion of that Lot; and
24

25 **ORDER ON PLAINTIFFS' MOTION FOR
ORDER CLEARING EASEMENT, TERMS
AND ATTORNEY FEES - 1**

Advocates Law Group
C. Thomas Moser, WSBA #7287
1204 Cleveland Avenue
Mount Vernon, WA 98273
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A-5

1 3) Plaintiffs are the owners of Lot 3 and Defendant is the owner of Lots 4 and 2 of the short plat;
2 and

3 4) This litigation was commenced in 2010 between the parties and completed by trial in March
4 2011 before Judge Susan Cook and final orders were entered in January 2012; and

5 5) In the final order Judge Cook made specific findings concerning the easement over Lot 4 in
6 Findings of Fact numbers 46 through 53, recognizing Plaintiffs' right to the easement across Lot
7 4 to access Lot 3; and

8 6) Judge Cook found that the parties' original intent was to have two easements to Lot 3 because
9 of the land topography; and

10 7) Defendant argues that decisions of the Court of Appeals and Supreme Court in this matter
11 extinguished the easement across Lot 4, but the Court can find nothing to support that argument;
12 and
13

14 8) The Court finds no prior orders requiring the Defendant to not interfering with Plaintiffs' right
15 to use the easement on Lot 4.

16 Based on the foregoing Findings the Court now makes the following:

17 **ORDER**

18 **IT IS HEREBY ORDERED, AJUDGED, AND DECREED** that Plaintiffs' Motion For
19 Order On Clearing Easement, ~~Concept of Court, Terms and Attorney Fees is granted~~; and

20 **IT IS FURTHER ORDERED** that Defendant Michael Goodman shall within two days
21 from entry of this order:

22 1) Move his truck and any other such obstructions from the twenty-foot easement area as
23 is identified in plaintiffs' motion; and

24 **ORDER ON PLAINTIFFS' MOTION FOR**
25 **ORDER CLEARING EASEMENT, TERMS**
AND ATTORNEY FEES - 2

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1 2) Remove the chain and lock from Plaintiffs' gate; and

2 3) If Defendant fails to remove his vehicle from the easement within two days from entry
3 of this order, he shall be ordered to pay \$250 per day for each day he does not obey this order;
4 and

5 4) If Defendant does not remove the chain and lock within two days from the entry of this
6 order, plaintiffs are authorized to take whatever peaceful action necessary to remove the same.

7 **IT IS FURTHER ORDERED** that Defendant Michael Goodman shall pay attorney fees
8 and expenses to plaintiffs in the sum of \$ 0, which shall be delivered to
9 plaintiff's counsel within two days after entry of this order:

10 Done In Open Court this 4 day of December, 2018

11
12
13 [Signature]
14 Judge

15 Presented by:

16 [Signature]

17 C. THOMAS MOSER, WSBA# 7287
18 Attorney for Plaintiffs Goodman

15 Entry Approved by:

16 [Signature]
17 Michael Goodman, Pro Se

19 *op Report*
20 *Objection: Defendant*

21 [Signature]

22 *objection to two easements*
23 *to same lot, express and implied*
24 *are objected to*

25 ORDER ON PLAINTIFFS' MOTION FOR
ORDER CLEARING EASEMENT, TERMS
AND ATTORNEY FEES - 3

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CHANCE GOODMAN - FILING PRO SE

August 24, 2020 - 7:38 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 98755-6
Appellate Court Case Title: Edward Goodman, et ux. v. Michael Goodman
Superior Court Case Number: 10-2-00587-3

The following documents have been uploaded:

- 987556_Answer_Reply_20200824073407SC818879_8116.pdf
This File Contains:
Answer/Reply - Reply to Answer to Petition for Review
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A copy of the uploaded files will be sent to:

- Kelly@madiganlawoffice.com
- info@madiganlawoffice.com

Comments:

Sender Name: Chance Goodman - Email: chancegoodman@msn.com
Address:
13785 Goodman Lane
Anacortes, WA, 98221
Phone: (360) 299-2239

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